

REMARKS

Claims 1-6, 24, 26-30 and 38 are pending. The Office Action dated April 16, 2008 in this Application has been carefully considered. Applicant wishes to thank the Examiner for allowing Claims 1-6 and 38. New Claims 39 – 42 have been added. Applicant believes the Examiner is actually referring to a 35 U.S.C. 103(a) rejection rather than a 102(e) rejection regarding Claims 24, 26 and 27. Reconsideration and allowance are respectfully requested in light of the above amendments and the following remarks.

Claim Rejections 35 U.S.C. § 103

Claims 24, 26 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,668,667 to Seliger (“Seliger”) in view of U.S. Patent No. 6,876,482 to DeReus (“DeReus”). In light of the amendments submitted herewith, Applicant respectfully submits that the rejections of Claims 24, 26, and 27 have been overcome. Accordingly, Applicant respectfully requests that the rejections of Claims 24, 26, and 27 be withdrawn.

Rejected independent Claim 24, as now amended, more particularly recites one of the distinguishing characteristics of the present invention, namely, “a cantilever arm for completing an electrical path to at least a conducting surface, the cantilever arm having a portion attached to a substrate and a movable portion, which is suspended over the conducting surface” and “a tether”. (Emphasis Added). Support for this amendment may be found on page 7, lines 6 – 25 and page 8, lines 1 – 6 of the Application.

Such a MEMS device having a tethered cantilever arm is not taught, suggested or disclosed by Seliger. Seliger, instead, teaches a device for mechanical loading of a bonding wire (reference numeral 5), not a device for completing an electrical path of any sort. Seliger teaches that the unsupported support body (reference number 34) acts as a contact surface (ref. num. 4) for

connecting the bonding wire which is pushed and pulled by the expansion and contraction of the actuator(s) (ref. num. 3). See Seliger Col. 6, lines 43 – 59. The unsupported support body is moved at its fixed end and no actuating force is applied along the unsupported portion of the support body. In this way, the support body does not function as a cantilever arm. Seliger does not teach that the unsupported support body is suspended over a conducting surface or that the unsupported support body acts to complete an electrical path to a conducting surface.

Furthermore, the bonding wire (ref. num. 5) of Seliger is not a tether. The purpose of the putting stress and strain on the bonding wire is to test the strength of the bonding wire. In other words, the bonding wire is a test subject. Therefore, Selinger does not teach that the bonding wire acts to tether the unsupported support body.

DeReus was cited by the Examiner as evidence that it would have been obvious to modify Seliger to include a semiconductor substrate in order to attain the claimed invention. DeReus, however, was not cited for teaching a MEMS device having a tethered cantilever arm and DeReus does not provide any factual basis for finding a reason or rationale that would render the claimed invention obvious. For these reasons, Applicant respectfully requests that the rejection of Claim 24 be withdrawn.

Claims 26 and 27 should be allowable by virtue of their dependency on amended Claim 24, which is believed allowable. Furthermore, Seliger does not recite any corresponding structure for accomplishing the identical function of insulation, contrary to the assertion of the Examiner that air is a recited element of Seliger. The distance “d”, cited by the Examiner as an insulating element, is not described as such and functions merely to provide spacing for the contact surfaces (ref. nums. 2 and 4) for “safety reasons.” See Seliger, Col. 6, lines 28 – 36. In fact, the Examiner fails to apply the proper standard of examination for interpretation of means-plus-function limitations found in

Claims 26 and 27. See Manual of Patent Examination Procedures §2181. Therefore, the Examiner has erred in finding that Seliger and DeReus render the claim obvious and Applicant respectfully requests that the rejections be withdrawn.

Claims 28 and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,668,667 to Seliger (“Seliger”) in view of U.S. Patent No. 6,876,482 to DeReus (“DeReus”), and further in view of U.S. Patent No. 6,668,667 to Zavracky (“Zavracky”).

Claims 28 and 29 are also believed allowable by virtue of their dependency on Claim 24, which is believed allowable as amended. Furthermore, similar to Claims 26 and 27, the Examiner fails to apply the proper standard of examination of means-plus-function limitations. Notwithstanding that error, Seliger does not recite any corresponding structure for accomplishing the identical function of insulation, contrary to the assertion of the Examiner that air is a recited insulating element of Seliger. Therefore, Applicant respectfully requests full allowance of all pending claims.

New Claims 39 - 42 have been added. These Claims do not add any new matter. Support for these Claims may be found on page 7, lines 6 – 25 and page 8, lines 1 - 6. In particular, none of the cited references teaches operations for moving a suspended beam portion of a fixed-free micromechanical switch and limiting that movement. Applicant believes that these Claims are distinguishable from all cited references.

Applicant hereby requests an extension of time for making this reply and hereby authorizes the Director to charge the required fee to Deposit Account No. 50-0605 of CARR LLP. In the event that any other fees are due, the Director is hereby authorized to charge any required fees due, and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Respectful request is made for reconsideration of the Application, as amended, and for an issuance of a Notice of Allowance. Should the Examiner deem that any further amendment is desirable to place this Application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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